REMARKS

The enclosed is responsive to the Examiner's Office Action mailed on June 10, 2009. By way of the present response applicant has: 1) amended claim 1; 2) added no claims; and 3) canceled no claims. Applicant has amended claim 1 to clarify the subject matter claimed. No new matter has been added. Reconsideration of this application as amended is respectfully requested.

Examiner Interview

Applicant thanks the Examiner for the courtesy of conducting a telephonic interview with the undersigned attorney on September 30, 2009. In the interview, the parties discussed the rejection of the claims under 35 U.S.C. §103. In particular, the undersigned attorney argued that the references fail to disclose a controller configured to turn off the motor if the pressure of gaseous fluid exiting the void space falls below a predetermined level. The Examiner recommended amending claim 1 to recite turning off of the motor as a positive recitation rather than using "if" which may be interpreted as optional. Additionally, the Examiner recommended clarifying the claim to emphasize that the detection of the pressure of gaseous fluid exiting the void space falls. The undersigned attorney presented the enclosed amendment to claim 1 in a follow-up telephone conversation and the Examiner tentatively agreed that the amendment and arguments should overcome the present rejection and require a new search.

Claim Rejections – 35 U.S.C. §103

Claims 1-4, 14, 16-18, 21, 23-27, 36, 38-46 and 49 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Norman (U.S. Patent No. 6,635,067,

hereinafter, "Norman") in view of Selewski et al., (U.S. Patent No. 6,777,844, hereinafter, "Selewski") and Yoshimura et al., (U.S. Patent No. 7,033,144, hereinafter, "Yoshimura").

Norman describes a liquid-cooled, hand-held surgical tool. Selewski describes a vacuum cleaner assembly powered by a brushless motor. Yoshimura describes a cooling fan for a oil-cooled screw compressor.

Applicant respectfully submits that Norman does not teach or suggest a combination with Selewski and Yoshimura and that Selewski and Yoshimura do not teach or suggest a combination with Norman. The combination of the surgical tool described in Norman and a vacuum cleaner's motor assembly in Selewski is the result of impermissible hindsight based only upon the present application.

Furthermore, even if Norman, Selewski, and Yoshimura were combined, the combination fails to disclose a controller configured to turn off the motor in response to determining that a detected pressure of gaseous fluid exiting the void space has fallen below a predetermined level as set forth in amended claim 1. Applicant agrees with the Examiner's assertion that Normal fails to disclose this feature. However, applicant disagrees with the Examiner's assertion that this feature would have been obvious in view of Selewski and Yoshimura.

Selewski is concerned with temperature, not pressure - i.e., Selewski describes a thermal sensor to detect overheating of the motor and shut down the motor if the temperature exceeds a threshold. (Selewski, col. 9, ll. 18-28). Yoshimura describes that "the heat generation quantity of the motor can be obtained from the ***motor rotation speed R and*** the discharge pressure P2. Thus, when the heat generation quantity is estimated from the motor rotation speed R and the

discharge pressure P2, and the cooling aiflow quantity, and furthermore the rotation speed of the fan, corresponding to the heat generation quantity are obtained, ***proper cooling is enabled***." (Yoshimura, col. 5, ll. 36-44) (emphasis added). Yoshimura, therefore, is also concerned with temperature. Neither Yoshimura nor Selewski teaches or suggests turning off the motor in response to determining that a detected pressure of gaseous fluid exiting the void space has fallen below a predetermined level. Instead, the combination would describe either sensing a temperature or estimating the temperature/heat generation quantity and turning off the tool based upon that temperature. Furthermore, Yoshimura only provides an estimate of heat generation and it requires *both* motor rotation speed and discharge pressure. This estimate is only described as being sufficient for proper cooling - Yoshimura does not state any accuracy or application for the estimate beyond that purpose.

The Examiner's argument on page 7 of the Office Action describes a relationship of motor power, air pressure, and temperature. While applicant agrees that there may generally be a relationship between motor power, air pressure, and temperature, the Examiner's argument does not take into account other factors, such as the influence of external temperature (operating environment), the effect of duration of operation on temperature, a change in pressure unrelated to motor power, etc. Additionally, monitoring the pressure of gaseous fluid exiting the void space provides advantages over monitoring the temperature or estimating the temperature using pressure as one of many factors. Determining the pressure of gaseous fluid exiting the void space allows the user to determine whether any gaseous fluid has been lost during use, e.g., through hose or other leaks. Any loss

of gaseous fluid during use in a sterilized environment can be considered a contaminant. Furthermore, maintaining a particular pressure within the tool can serve to prevent water/liquid ingress into the tool, which can damage the motor -- e.g., when dipping the tool into a sterilization bath. Lastly, when dipping the tool into a sterilization bath that is of a high temperature, the tool is subject to high fluctuations in temperature that do not necessarily correspond to the temperature of the motor. Therefore, it is beneficial to use the pressure rather than temperature to turn off the motor.

Accordingly, applicant respectfully submits that the rejection of claim 1 has been overcome.

Given that claims 2-4, 14, 16-18, 21, 23-27, 36 38-46, and 49 are dependent upon claim 1, and include additional features, applicant respectfully submits that the rejection of claims 2-4, 14, 16-18, 21, 23-27, 36 and 38-46 has been overcome for at least the same reasons as above.

Claims 5-13 and 29-37 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Norman in view of Selewski and Yoshimura and further in view of Sjostrom et al (U.S. Patent No. 5,712,543, hereinafter, "Sjostrom").

Given that claims 5-13 and 29-37 are dependent upon claim 1, and include additional limitations, and given that Sjostrom fails to remedy the shortcomings of Norman and Selewski discussed above, applicant respectfully submits that the rejection of claims 5-13 and 29-37 have been overcome for at least the same reasons as above.

CONCLUSION

Applicant respectfully submits that in view of the amendments and arguments set forth herein, the applicable objections and rejections have been overcome. Applicant reserves all rights under the doctrine of equivalents.

Pursuant to 37 C.F.R. 1.136(a)(3), applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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